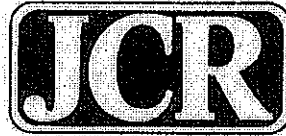


October 9, 2008



Tukwila Planning Commission  
c/o Department of Community Development  
6300 Southcenter Blvd., #100  
Tukwila, WA 98188

RE: Shoreline Master Program Update

Dear Commissioners:

As developers in Tukwila for the last twenty years, we have great concern over the future changes of the Shoreline Master Program that are now being discussed.

Our concerns are basically three:

1. When/how will these new applicability standards apply and how specifically will they effect existing commercial development? As owners we have obligations to insurance companies, as well as lenders, and the "non-compliance" status of our properties would be significant.
2. It does not appear there is a process to customize the buffer dimensions, for new development, if the impact to the river is minimal from one property over another. This significantly restricts developers from adding many new projects near the river.
3. Many of the proposed site standards for new development will add such costs to projects that development will be greatly curtailed. We believe the new restricted height, increased landscaping and site orientation standards need to be reevaluated.

We appreciate the opportunity to voice our concerns and only hope they will be considered by the Planning Commission as the review process continues.

Sincerely,

JOHN C. RADOVICH DEVELOPMENT COMPANY

  
John C. Radovich  
Owner

EXHIBIT 35 DATE 10/9/08

PROJECT NAME

FILE NO

SMP Update  
LOT 088

**John C. Radovich**  
**Development Company**

October 9, 2008

VIA ELECTRONIC MAIL  
AND HAND DELIVERY

Tukwila Planning Commission  
c/o Department of Community Development  
6300 Southcenter Blvd., #100  
Tukwila, WA 98188

RE: Shoreline Master Program Update

Dear Commissioners:

This letter is written on behalf of all of the undersigned commercial and industrial property owners in the City of Tukwila. We are writing jointly to impress on you our deep concern regarding the adverse impacts of the Draft Shoreline Master Program ("SMP") on our properties and the City as a whole. This letter identifies key shared areas of concern. This letter does not contain an exhaustive discussion of all issues raised by the SMP. Individual property owners will provide further information specific to their properties and interests separately.

1. Public Participation

The last opportunity for property owner input to the SMP amendment process was in the year 2000. Since then, the proposed amendments (and applicable Department of Ecology ("DOE") regulations) have changed dramatically. Yet, the City has failed to reestablish the citizens advisory committee that existed in 2000 or to provide any other mechanism for meaningful dialogue between the City and affected property owners. The Planning Commission should recommend that the City provide opportunities for this dialogue, including the formation of a citizens advisory committee.

2. Applicability (Triggering Events)

Section 9.1 of the SMP, which addresses when the development standards of the SMP will apply, is vague and inconsistent with other SMP provisions. Property owners cannot tell from this section when the development standards in the SMP will apply. In addition, the standards of TMC 18.70 are referenced but not included in the SMP text, leading to inconsistencies and confusion. Finally, some of the standards in Section 9.1 and TMC 18.70 result in the application of SMP development standards in an overly broad and burdensome manner. The Planning Commission should closely examine Section 9.1 of the SMP and TMC 18.70 and recommend revisions to these sections so that they are integrated, consistent and clear. In addition, many of the "triggers" for SMP applicability should be significantly revised or eliminated altogether, including the low threshold for application of the SMP in the case of renovation, the provision limiting reconstruction in the case of

destruction, and the provisions limiting retreating of buildings that have been vacant for six months (for nonconforming uses) or two years (for nonconforming structures).

### 3. Shoreline Buffers

Shoreline buffers for commercial and industrial properties are expanded to 100 to 125 feet uniformly applied to all properties without any site specific analysis. The SMP and appendices fail to provide scientific and technical support for the City's approach (e.g., that achieving a 2.5:1 slope everywhere along the river is needed). This approach is not needed to achieve "no net loss" of ecological functions necessary to sustain shoreline natural resources. Rather, by imposing such a requirement everywhere, the City appears to be trying to maximize the opportunity to pursue future restoration projects to improve ecological functioning at tremendous cost to the property rights of private landowners. The Planning Commission should recommend elimination of the "one size fits all" buffer and instead recommend variable buffer widths guided by clear and appropriate standards. The Commission should recommend provisions ensuring that the cost of infrastructure or habitat improvements is not imposed solely on shoreline property owners.

### 4. Development Standards

There are a number of development standards that should be revisited due to their impact on development. These include the landscaping, site design, and height standards, among others.

The landscaping requirements along the bank are so cost prohibitive, and require so many permits, that imposing these requirements will prevent economic development in the area, costing the City tax revenue.

The SMP's requirement that parking facilities, loading docks and service areas be located on the landward side of the development is inconsistent with fact that warehousing, distribution and similar uses are allowed in many places in the shoreline are under the City's SMP and zoning code. In many places the foregoing requirement will result in such facilities facing the public street, which is both aesthetically and functionally problematic. Similarly, the requirement that blank walls be avoided "on the public and river sides of buildings" is nonsensical, as it would appear to preclude such walls anywhere, which is inconsistent with the types of uses allowed under the City's SMP and zoning code. The Planning Commission should recommend elimination of these requirements.

The 45 foot height limitation between the landward edge of the river buffer and the edge of the shoreline area serves no apparent purpose and would hinder rational building design for many allowable uses. With appropriate landscaping, there is no reason why greater height should not be allowed – and, indeed, in many cases greater height will serve important public goals such as increasing economic vitality and allowing creative site design. Staff has indicated this requirement serves to protect residential views; however, these views are from hypothetical future residential development. Furthermore, the City has not conducted view studies showing that there would be any view blockage. Accordingly, the Planning Commission should recommend substantially revising or eliminating the 45-foot height limit.

5. Public Access

The SMP calls for public access to the shoreline and along the shoreline without compensation to private property owners whose land is used for this purpose. This unfairly places the cost of public access on private property owners. The SMP does not take into account safety, security, liability and insurance burdens on private property owners. The Planning Commission should recommend the elimination of mandatory public access requirements.

6. Economic Impacts

The current plan would make very functional and valuable property in the City non-conforming. This impairs the value, marketability and insurability of the property. Creating a large area of non-conforming uses will encourage economic stagnation and blight in a large and important segment of Tukwila. The Planning Commission should not act without a full economic impact study.

7. Role of City

The City has deferred unduly to DOE. The City sought and adopted DOE's comments on the SMP (including those on buffers) before releasing the draft SMP for review and comment by Tukwila property owners. The City had the process backwards. The Shoreline Management Act grants the City discretion to adopt regulations that take into account the unique conditions and circumstances of the City. The Planning Commission should consider first the interests of those who own property, work and live in the City.

Thank you for your consideration of these comments. We look forward to working cooperatively with the City to develop a SMP that gives appropriate consideration to property owner interests.

Sincerely,

THE UNDERSIGNED COMMERCIAL AND INDUSTRIAL STAKEHOLDERS

cc: Tukwila City Council  
Mayor Jim Haggerton  
Jack Pace  
Carol Lumb

Tukwila Planning Commission  
October 9, 2008  
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John C. Radtke  
Property Owner

By: John C. Radtke by Mark J. Radtke his attorney in  
Its: Manager / OWNER fact